Fresno, California

January 13, 2011

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present: Oliver Baines III Councilmember

Clinton Olivier Acting Council President

Sal Quintero Councilmember
Larry Westerlund Councilmember
Blong Xiong Councilmember
Lee Brand Council President

Absent: Andreas Borgeas Councilmember

Mark Scott, City Manager Bruce Rudd, Assistant City Manager Jim Sanchez, City Attorney Becky Klisch, City Clerk Yolanda Salazar, Assistant City Clerk

President Brand announced the birth of Councilmember Borgeas' son last night at 10:02 p.m. and congratulated him.

Elaine Rucker of Soka Gakkai International/USA gave the invocation, and President Brand led the Pledge of Allegiance.

PROCLAMATION HONORING THE MEMORY OF GEN. VANG PAO - MAYOR AND CITY COUNCIL

Read and presented to Gen. Pao's wife and family.

PRESENTATION OF THE SPCA PET OF THE MONTH - COUNCILMEMBER QUINTERO

The pets of the month available for adoption, two Spaniel mix puppies, were presented.

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APPROVE MINUTES OF JANUARY 6, 2011

On motion of Councilmember Westerlund, seconded by Acting President Olivier, duly carried, RESOLVED, the minutes of January 6, 2011, *approved as amended*, on Page 157-3, relative to the first motion on the election of the Redevelopment Agency Chair, correcting the wording to: "...elect Councilmember Xiong as Agency Chair..." instead of "re-elect Councilmember Xiong...".

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COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Baines encouraged council members and the community to be a part of the Martin Luther King, Jr. festivities that began earlier in the week and stated information should be posted on the website.

Councilmember Westerlund (1) stated he was sorry to miss the MLK Prayer Breakfast which he had planned to attend; (2) stated the nation was shaken with the shooting incident in Tucson, Arizona, and extended his prayers and condolences to Rep. Giffords and all the other victims and grieving families; and (3) upon his question President Brand, as a pension task force member, stated a report would be brought forth to Council next month.

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Councilmember Quintero (1) thanked Councilmember Westerlund for his comments on the Arizona incident stating it served as a reminder how precious life was and how soon it can be taken away and added prayers were with all the families; and (2) invited everyone to take the "Fit Family Challenge" this weekend at the Mosqueda Center which he stated was a free boot camp for individuals/families hosted by world boxing champion Jennifer Alcorn and sponsored by various community organizations.

President Brand (1) reiterated Councilmember Borgeas was home due to the birth of his son last night and would be present at the next meeting; and (2) spoke briefly to the issue of security at City Hall and questioned, in view of the Arizona shootings and the other recent shooting at a school board meeting, if any additional precautions or changes should be made, and not just for the city council but all city staff. Councilmember Westerlund stated a review of security started last year and some changes had been made in terms of access, dialog on security for the entire building was opened up with the city manager, and the ability to respond to certain types of incidents was needed in view of all of the different things encountered over the past year.

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APPROVE AGENDA:

(10:00 A.M. #1) HEARING ON PLAN AMENDMENT APPLICATION NO. A-10-09, REZONE APPLICATION NO. R-10-07, AND ENVIRONMENTAL FINDINGS FILED BY DIRK POESCHEL LAND DEVELOPMENT SERVICES, INC., ON BEHALF OF WILSON HOMES, NORTH SIDE OF W. HERNDON BETWEEN N. VALENTINE AND N. MARKS AVENUES (Continue to February 2, 2011, at 10:15 a.m.)

Continued as noted.

On motion of Acting President Olivier, seconded by Councilmember Baines, duly carried, RESOLVED, the **AGENDA** hereby approved as submitted, by the following vote:

Ayes : Baines, Olivier, Quintero, Westerlund, Xiong, Brand

Noes : None Absent : Borgeas

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ADOPT CONSENT CALENDAR:

- (1-A) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AN AGREEMENT WITH THE ECONOMIC DEVELOPMENT CORPORATION OF FRESNO COUNTY (EDC) FOR THE WEED AND SEED CENTRAL FRESNO GRANT PROGRAM AND ACCEPT THE AWARD OF \$41,750 FOR THE $3^{\rm RD}$ YEAR
- (1-B) AUTHORIZE AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF FRESNO HOUSING AUTHORITY AND THE POLICE DEPARTMENT TO REPLACE A SENIOR CSO POSITION WITH A SWORN POLICE OFFICER FOR THE PERIOD 12/27/10, THROUGH 6/30/11
- **#1 RESOLUTION NO. 2011-1 -** 61ST AMENDMENT TO AAR 2010-138 APPROPRIATING \$26,500 TO PAY FOR THE DIFFERENCE IN FUNDS BUDGETED FOR A SENIOR CSO AND A SWORN OFFICER (CAPITAL FUNDING GRANT PROGRAM)
- (1-C) RESOLUTION NO. 2011-2 DEDICATING CERTAIN CITY-OWNED PROPERTY FOR PUBLIC STREET PURPOSES AT PUMP STATION NO. 364 LOCATED ON THE EAST SIDE OF N. GARFIELD SOUTH OF W. BARSTOW AVENUE
- (1-D) ADOPT FINDING OF A CEQA CATEGORICAL EXEMPTION FOR THE FIRST AND DAKOTA AVENUES TRAFFIC SIGNAL MODIFICATION PROJECT, AND AWARD A CONTRACT FOR THE PROJECT TO MADCO ELECTRIC, INC., IN THE AMOUNT OF \$252,075
- (1-E) AWARD A CONTRACT TO DAVID KNOTT, INC., IN THE AMOUNT OF \$76,500 FOR DEMOLITION OF THREE (3) STRUCTURES IN PREPARATION OF THE PEACH AVENUE WIDENING PROJECT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO EXECUTE THE AGREEMENTS ON BEHALF OF THE CITY

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- (1-F) APPROVE A CONSULTANT SERVICES AGREEMENT WITH AECOM TECHNICAL SERVICES, INC, IN THE AMOUNT OF \$87,488, FOR DESIGN OF THE FRESNO STREET/COLLEGE AVENUE SEWER REHABILITATION PROJECT, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY
- (1-G) ADOPT FINDING OF A CEQA CATEGORICAL EXEMPTION (EXISTING FACILITY, PROTECTION OF NATURAL RESOURCES, AND MITIGATION OF HAZARDOUS SUBSTANCES), FOR ENVIRONMENTAL CLEAN-UP AT AND IN THE VICINITY OF THE FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI) RELATING TO MILITARY OPERATIONS AT THEN-NAMED HAMMER FIELD
- #1 AUTHORIZE AMENDMENT NO. 1 TO THE AGREEMENT WITH ERM REMEDIATION & CONSTRUCTION MANAGEMENT WEST, INC., IN AN AMOUNT NOT TO EXCEED \$366,999, TO PROVIDE ON-GOING PROFESSIONAL ENGINEERING, ENVIRONMENTAL AND REMEDIAL ACTIONS CONCERNING GROUNDWATER CONTAMINATION EMANATING FROM FYI
- (1-H) BILLS FOR INTRODUCTION AMENDING VARIOUS RETIREMENT SECTIONS OF THE FRESNO MUNICIPAL CODE TO ENHANCE COMPLIANCE WTH THE INTERNAL REVENUE CODE BY THE FIRE & POLICE AND EMPLOYEES' RETIREMENT SYSTEMS TO MAINTAIN THE SYSTEMS' TAX DEFERRED STATUS
- #1 BILL NO. B-1 FIRE AND POLICE RETIREMENT SYSTEM
- #2 BILL NO. B-2 EMPLOYEES' RETIREMENT SYSTEM

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Baines, Olivier, Quintero, Westerlund, Xiong, Brand

Noes : None Absent : Borgeas

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RECESS - 8:58 A.M. - 9:17 A.M.

(9:15 A.M. #1-A) RESOLUTION NO. 2011-3 - 58TH AMENDMENT TO AAR 2010-138 APPROPRIATING \$5,111,600 FOR OPERATING PROGRAMS AND THE COMPLETION OF PREVIOUSLY-APPROVED CAPITAL PROJECTS IN THE PUBLIC WORKS DEPARTMENT

Public Works Director Weimiller reviewed the issue and recommended approval, all as contained in the staff report as submitted, and responded to questions of Councilmember Westerlund relative to what the \$174,000 for median island improvements would be spent on, if those funds were carried over from last year, and why the funds were not expended in the last fiscal year.

On motion of Councilmember Westerlund, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled Resolution No. 2011-3 hereby adopted, by the following vote:

Ayes: Baines, Olivier, Quintero, Westerlund, Xiong, Brand

Noes : None Absent : Borgeas

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(9:15 A.M. #2-A) PRESENTATION OF UPDATES BY THE CENTRAL CALIFORNIA SOCIETY FOR THE PREVENTION OF CRUELTY OF ANIMALS (CCSPCA) – PRESIDENT BRAND

President Brand introduced the item and clarified this was an informational item only and no action would be taken. Beth McCaffrey with the SPCA gave an in-depth PowerPoint presentation entitled "Central California SPCA – Update on Progress and Growth", which consisted Why We Work So Hard, Maintaining "Centralized Education", Partnerships Bringing Great Things to the Community, Gennuso Spay/Neuter Fund and Spay Fresno, Annual Safety/All Dogs Can Bite, Expertise in the Animal Field, Numbers and Percentages, CCSPCA Does Not Hide Behind Language Related to Numbers, Continuously Looking for Productive/Proactive Programs and Implementation, Planting More Flowers/Growing More Gardens, Expanding the Effort, Progressive Movement,

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Enrichment Program (2-0), Fostering/Fosters Always Needed, Public Relations and Community Involvement, Find Out More About Us: www.ccspca.com or on Facebook, Community Ambassadors, Open Invitation/Open Door Policy, Changes and Expansions, All We Do Leads to Our Goal, and Get to Know Your SPCA.

Council discussion ensued with Ms. McCaffrey responding to questions and/or comments of Councilmembers Westerlund, Baines, Xiong and President Brand relative to "no kill" shelter/what it means/why it was not workable here, number of animals that go through the shelter yearly, outreach/education/if posting pictures on Facebook has been considered, reclaim cost, percentage of people who surrender/walk away from their pets due to the reclaim cost, number of fosters, what the problem was with Chihuahuas and pit bulls, meaning of "unadoptable" and determination factors, reason and solution for the high number of cats in the summer, need for future discussion on reason for fees for dogs but not cats, and if the "Pet Responsibility Act" has helped. President Brand thanked Ms. McCaffrey for the presentation and there was no further discussion.

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(10:00 A.M. #2) HEARING TO CONSIDER FORMATION OF A CITY-WIDE ENERGY AND WATER EFFICIENCY CONTRACTUAL ASSESSMENT DISTRICT

#1 RESOLUTION NO. 2011-4 - APPROVING THE FORMATION OF AN ENERGY AND WATER EFFICIENCY CONTRACTUAL ASSESSMENT DISTRICT AND OPERATION OF AND PARTICIPATION IN THE PACIFIC HOUSING & FINANCE AGENCY'S CALIFORNIA PROPERTY ASSESSED CLEAN ENERGY (CALIFORNIA PACE) PROGRAM, CONFIRMING THE RELATED REPORT PURSUANT TO THE CALIFORNIA STREETS AND HIGHWAYS CODE, THE BOUNDARIES OF THE ASSESSMENT DISTRICT, AND THE LEVY OF CONTRACTUAL ASSESSMENTS, AND AUTHORIZING EXECUTION OF DOCUMENTS AND CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

President Brand announced the time had arrived to consider the issue and opened the hearing.

Sustainability Manager Oldham stated this was the second part of the two-part process and reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Speaking in support of the issue were: Michael Chaffin with the California PACE Program, who also expanded further on the program and benefits; Danna McFerrin with California Solar, on behalf of area contractors; John Walker, Energy Services Director for Dinyari Incorporated; Hector Uriarte, Green Jobs Coordinator at Proteus, Inc.; Darrel Baltazar, on behalf local contractor Four Cs/DAC; Virginia Gibson (name of company inaudible); and Michael Conley with DRI Energy.

Upon call, no one else wished to be heard and President Brand closed the public hearing.

Mr. Oldham, Mr. Chaffin and City Attorney Sanchez responded to questions and/or comments of Councilmembers Baines, Westerlund and President Brand and/or clarified issues relative to job creation opportunities (3-0), outreach and marketing plans, vendor application process, number of applicants anticipated, this program being solely for commercial/retail/multifamily at this time and not residential, the significant unresolved legal questions about how this program works, the Federal Housing Finance Agency's (FHFA) issue with the priority lien position of the assessments and their position being disputed by the State and a number of communities, legislation status/litigation status, property tax priority recognition, liability and the subject resolution clearly specifying the City has no debt obligation under this program, minimum and maximum amounts financed by the FHFA, and anticipated job and dollar impact to the city.

On motion of President Brand, seconded by Councilmember Baines, duly carried, RESOLVED, the above entitled Resolution No. 2011-4 hereby adopted, by the following vote:

Ayes: Baines, Olivier, Quintero, Westerlund, Xiong, Brand

Noes : None Absent : Borgeas

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(10:30 A.M.) HEARING TO CONSIDER DESIGNATING (1) THE FIRESTONE SALES & SERVICE CENTER BUILDING LOCATED AT 1502 FULTON STREET, AND (2) THE FRESNO UNIFIED SCHOOL DISTRICT (FUSD) MAINTENANCE & WAREHOUSE BUILDING LOCATED AT 717 S. SEVENTH STREET, TO THE LOCAL REGISTER OF HISTORIC RESOURCES

#1 RESOLUTION NO. 2011-5 - <u>NOT</u> DESIGNATING THE FIRESTONE SALES & SERVICE CENTER BUILDING TO THE LOCAL REGISTER OF HISTORIC RESOURCES

#2 RESOLUTION NO. 2011-6 - <u>NOT</u> DESIGNATING THE FUSD MAINTENANCE & WAREHOUSE BUILDING TO THE LOCAL REGISTER OF HISTORIC RESOURCES

President Brand announced the time had arrived to consider the issue and opened the hearing.

Historic Preservation Project Manager Hattersley-Drayton stated this was the second time in her tenure that staff and the Historic Preservation Commission (HPC) had different recommendations, and gave an in-depth PowerPoint presentation which consisted of (1) Fresno's Local Register of Historic Resources, Protocols for Designation to the Local Register, Criteria for Listing, Significance and Integrity, Protocols for Designation 12-1609, and Protocols Followed; (2) The Firestone Sales and Service Center which included the Background, Aerial Map, Research, a 1948 Footprint and 1926 Layout of the Building, Fulton Corridor Specific Plan, Cultural Arts District Perspective View, Eligibility of the Building, Staff Recommendation to Not Designate, and the 1/10/11, Historic Preservation Commission Action to Recommend Designation; and (3) The FUSD Maintenance and Warehouse Building which included the Background, Aerial Map, Research, Evaluation of the Warehouse, 1936 Elevation Drawing, Architect Franklin & Kump Jr., Site Plans, Evaluation of the Building, City of Fresno Opposition to Designation, Eligibility of the Building, and Staff Recommendation to Not Designate.

Speaking to the issue were: Architect and HPC member Chris Johnson with Johnson Architecture, who submitted written material into the record relating to his qualifications/expertise and additional information on the FUSD building, and who commented on both properties and in support of designating them to the local register (4-0); Don Simmons, HPC Chairman, 1440 E. Divisadero Street, who stated the HPC disagreed with staff's report and recommendation and spoke to their work/findings/position and recommendation to designate both properties; and Craig Smith with AMCAL, who spoke to their project at the site, the analysis conducted on historical preservation/possible reuse of the FUSD building, the \$1.7 million cost to restore the warehouse, and that cost causing a financial hardship.

Upon call, no one else wished to be heard and President Brand closed the public hearing.

Councilmember Westerlund spoke to the disrepair of the Firestone building and non-viability of it going forward, stated although he appreciated the thoughts of the HPC he believed it was beyond their purview to look at historic adaptive reuse, and stated he agreed with staff's recommendation, spoke to how buildings like this continue to sit and deteriorate, and made a motion to approve staff's recommendation to not designate, which motion was seconded by President Brand.

Councilmember Quintero thanked Mr. Johnson and Mr. Simmons for their presentation. Upon his question HCD Manager Casares advised the City has owned the FUSD building since 2006, whereupon Councilmember Quintero commented on his familiarity of the FUSD building, its affect on the neighborhood, it being a graffiti magnet and hangout for kids necessitating police calls for service, and to the needed housing project proposed for the site, and stated he agreed with staff's recommendation and made a motion to not designate the building to the local register, which motion was seconded by Councilmember Baines.

Councilmember Xiong stated he was at a dilemma with the FUSD building in terms of integrity/condition and added the reason for staff's recommendation to not designate was due to the condition of the building which the City, as the owner, allowed to get to that condition, with Ms. Hattersley-Drayton responding and clarifying issues. Councilmember Xiong stated the building met all the criteria except for integrity/condition, and upon his request Mr. Johnson spoke to the issues of demolition by neglect, holding owners to standards which he noted the FUSD building was not held to, to designs/uses that would work for the building, and the cost issue. Upon further question Ms. Hattersley-Drayton stated the Peach Avenue site was one city property that was eligible for the historical register.

President Brand spoke to the cost of preservation and the issue of downtown revitalization, to his experience working with older buildings/retrofits and the enormous cost for reuse versus demolishing and rebuilding, to the issue of balancing historical significance with moving forward on projects to preserve and rebuild downtown, and to his support for staff's recommendation. Councilmember Westerlund also stated it was absolutely more costly to rehab and rebuild than to start anew and further elaborated, with ACM Rudd responding to questions and clarifying issues on the Santa Fe Depot project.

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On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the above entitled Resolution No. 2011-5 (Firestone Building) hereby adopted, by the following vote:

Ayes: Baines, Olivier, Quintero, Westerlund, Xiong, Brand

Noes : None Absent : Borgeas

On motion of Councilmember Quintero, seconded by Councilmember Baines, duly carried, RESOLVED, the above entitled Resolution No. 2011-6 (FUSD Building) hereby adopted, by the following vote:

Ayes: Baines, Olivier, Quintero, Westerlund, Brand

Noes : Xiong Absent : Borgeas

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UNSCHEDULED COMMUNICATIONS:

Eric Wardwell spoke to an attack on him by pit bulls where he was almost bitten, referencing his letter submitted containing specifics of the incident, and to his concern with lack of response and the need to protect the handicapped from vicious dogs.

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ADJOURNMENT

There being no further bu objection, President Brand declared		uncil, the hour of 11:49 a.m. having	g arrived and hearing no
Approved on the27th	day ofJanuary	_, 2011.	
/s/	ATTEST:	/s//s/	lerk

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